



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Melanie H. Cobb *et al.*

Serial No.: 09/686,346

Filed: October 10, 2000

For: TAO PROTEIN KINASE POLYPEPTIDES
AND METHODS OF USE THEREFOR

Group Art Unit: 1652

Examiner: Monshipouri, M.

Atty. Dkt. No.: UTSD:1276USC

RECEIVED

NOV 07 2002

TECH CENTER 1600/2900

11/05/2002 HVUONG1 00000091 09686346

01 FC:2252

200.00 OP

CERTIFICATE OF MAILING
37 C.F.R. § 1.8

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as First Class Mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231, on the date below:

October 30, 2002
Date

Mark B. Wilson

RESPONSE TO RESTRICTION REQUIREMENT
DATED JULY 30, 2002; AND REQUEST FOR EXTENSION OF TIME

Commissioner for Patents
Washington, D.C. 20231

Sir:

This paper is submitted in response to the "Restriction Requirement" dated July 30, 2002, ("the Requirement") for which the date for response was August 30, 2002.

A request for a two-month extension of time to respond is included herewith along with the required fee. This two-month extension will bring the due date to October 30, 2002, which is within the six-month statutory period.

RESPONSE

Applicants traverse this “restriction requirement,” on the grounds that it is actually an improperly characterized species election requirement for the reasons set forth in the Remarks section below.

In view of this traversal, Applicants elect the species of the invention directed to methods of screening modulators of MAP kinase signal transduction through modulating TAO2 kinase, as described in Group IVb of the Requirement. In doing so, Applicants do not disclaim the subject matter of the other species.

In the event that Applicant’s traversal of the status of the Requirement as a restriction requirement is unsuccessful, Applicants elect to prosecute the Group 4b invention, as exemplified by claims 28-48 (in part), drawn to methods of screening modulators of MAP kinase signal transduction through modulating TAO2 kinase. In doing so, Applicants do not disclaim the subject matter of the other groups and do not traverse the Requirement’s finding that the three groups are drawn to patentably distinct inventions.

REMARKS

The Requirement sets forth a proper species election requirement, but does not set forth a proper restriction requirement, for the reasons set forth below.

Independent claims 28 and 29, as pending, comprise generic, linking claims, which recite a “TAO polypeptide.” Claim 30, which depends from both of claims 28 and 29, sets forth that “said TAO is selected from the group consisting of TAO1, TAO2, and ceTAO,” *i.e.*, claims three species of the invention using proper Markush group format.